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Attorneys for Defendant JEFFREY ABBETT

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

GREGORY W. ABBETT, an individual,	)	Case No. CV 10-02076 SBA
	)	
Plaintiff,	)	San Francisco Superior Court Case No.
	)	CGC-10-498763
v.	)	
	)	<b>STIPULATION AND ORDER RE</b>
ABBETT ELECTRIC CORPORATION, a	)	<b>MOTION TO TRANSFER VENUE</b>
California corporation; and JEFFREY	)	<b><u>OF ACTION</u></b>
ABBETT, an individual,	)	
	)	Date: July 27, 2010
Defendants.	)	Time: 1:00 p.m.
	)	Courtroom 1

**I. RECITALS**

WHEREAS, plaintiff originally filed his complaint in this matter in the San Francisco Superior Court; and

WHEREAS, defendant ABBETT ELECTRIC CORPORATION timely removed the matter to this Court in accordance with applicable law (Docket Doc. No. 1); and

WHEREAS, at or around that time, defendant ABBETT ELECTRIC CORPORATION moved to transfer venue of this matter to the Eastern District of California (Docket Doc. No. 6), for reference to that District's Bankruptcy Court, Sacramento Division, in accordance with that District's General Order No. 161, where plaintiff's personal Chapter 11 bankruptcy proceeding is pending before the Honorable Thomas C. Holman, Case No. 09-28058-B-11; and

1 WHEREAS, this matter is a “core proceeding,” as that term is used in the  
2 Bankruptcy Code, subject to Bankruptcy Court jurisdiction in the aforementioned Chapter  
3 11 proceeding; and

4 WHEREAS, it is in the interest of justice that this lawsuit together with those  
5 matters related to it, including without limitation defendants’ compulsory counterclaims  
6 (all or substantially all of which have previously been filed as claims in plaintiff’s  
7 bankruptcy court proceeding), be resolved in the context of the aforementioned Chapter  
8 11 proceeding; and

9 WHEREAS, defendants have not yet filed or served a responsive pleading to the  
10 complaint, the parties’ having agreed to continue that event to a date no later than five (5)  
11 business days following notice from the Eastern District of California that the matter has  
12 been docketed there, or as the Court may otherwise order; and

13 WHEREAS, the parties intend to reserve their respective rights to demand trial by  
14 jury in their respective actions, and on their respective claims, against one another in this  
15 matter.

## 16 **II. STIPULATION**

17 NOW, THEREFORE, the parties through their respective attorneys stipulate and  
18 agree as follows:

- 19 1. The foregoing recitals are true and correct.
- 20 2. For all the foregoing reasons, at its earliest convenience, the Court should  
21 transfer this matter to the Eastern District of California, with the expectation that the  
22 matter will be referred to that District’s Bankruptcy Court, Sacramento Division, in  
23 accordance with that District’s General Order No. 161, where plaintiff’s personal Chapter  
24 11 bankruptcy proceeding is pending before the Honorable Thomas C. Holman, Case No.  
25 09-28058-B-11, thereby resolving the pending motion to transfer venue.
- 26 3. In that event, defendants shall serve and file their responsive pleading(s) no  
27 later than five (5) business days following notice from the Eastern District of California  
28 that the matter has been docketed there, or as the Court may otherwise order; and

1           4.     The parties shall reserve their respective rights to demand trial by jury in  
2 their respective actions, and on their respective claims, against one another in this matter.

3  
4 DATED: July 1, 2010

ROSENQUIST & ASSOCIATES

5  
6 By:                     /s/                      
7       Nils Rosenquist  
8 Attorneys for Plaintiff GREGORY W.  
9 ABBETT

10 DATED: July 1, 2010

LAW OFFICES OF JAMES A. TIEMSTRA

11  
12 By:                     /s/                      
13       James A. Tiemstra  
14 Attorneys for Defendant ABBETT ELECTRIC  
15 CORPORATION

16 DATED: July 1, 2010

PHILLIPS, ERLEWINE & GIVEN LLP

17  
18 By:                     /s/                      
19       David M. Given  
20 Attorneys for Defendant JEFFREY ABBETT

21 **III. ORDER**

22       Upon the foregoing stipulation, and for good cause, it is hereby ORDERED that this  
23 matter be and hereby is transferred to the United States District Court in and for the  
24 Eastern District of California. The clerk shall forthwith undertake to transfer the file of  
25 this matter to that District. The pending motion to transfer is taken off calendar as moot.  
26

27 DATED: 6/30/10

28 *Aundra B. Armstrong*  
U.S.D.J.